

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
September 6, 2005

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:00 p.m., Tuesday, September 6, 2005, in the Board Room, York Hall, by Chairman James S. Burgett.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Kenneth L. Bowman, James S. Burgett, and Thomas G. Shepperd, Jr.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and James E. Barnett, County Attorney.

WORK SESSION

2006 LEGISLATIVE PROGRAM

The Board members reviewed the proposed 2006 Legislative Program with staff, and by consensus agreed to include the following issues in the final program to be considered for adoption on September 20:

Taxation, Revenues, and Cost Shifting:

- York County supports a thorough reassessment of the state's current tax structure, but opposes using tax restructuring efforts as a vehicle for shifting additional costs and/or service demands to localities, and requests that the General Assembly maintain the vital state and local partnership by providing local government with more direct tax authority and enacting legislation directing that 5 percent of state income tax revenues be returned to the localities.
- Real Estate Tax Rate: Do not restrict local government's ability to apply the real estate tax rate.
- VDOT—Revenue Sharing: Maintain the revenue sharing program so that counties have at least \$20 million in state funding available annually and can apply for up to \$1 million per locality.
- Support for Tourism: Provide adequate funding for Tourism promotion and marketing.
- Funding Partnerships for Critical Services:
 - Restore the reductions in funding in the Virginia Juvenile Crime Control Act made by the 2002 General Assembly.
 - Regarding mental health funding, fund mental health counseling in local juvenile detention centers and direct DMHMRSAS to work with DJJ to establish a juvenile corrections/forensics unit.
 - Oppose any local match for Medicaid.

- Stop the practice of transferring Emergency Medical Services funds generated through the \$4 for Life Program to the state's general fund.
- Increase funding to localities for the costs of administering the CSA.
- Increase funding for the state's Small Business Development Center Network by \$1 million.
- Provide full funding for state aid to public libraries, Constitutional Officers, juvenile and adult corrections, and other areas of shared responsibility.
- Consolidated Telecommunications Taxes and Fees: Oppose any legislation that will reduce the local ability to assess taxes and fees on telecommunications services.
- Areas of concern and requests for careful study of:
 - De-regulation of electricity—maintain the SCC's oversight and approval of electrical rates to assure affordable residential and commercial electrical service and to continue Virginia's competitive position for economic development.
 - Personal Property Tax Relief Act—provide funding sufficient to maintain the state's share of Personal Property Tax Relief at its current level.

Traffic Safety:

- Photo-Red Traffic Signal Enforcement: Include York County in legislation authorizing localities to have "photo red" traffic signal enforcement.
- New Classes of Small Motorized Vehicles: Request authority to regulate the operation of motorized skateboards and scooters, electric motor-powered mini-bikes, and similar devices which do not currently fall within statutory definitions of various kinds of motor vehicles.

Local Authority:

- Taxing Authority: Study the feasibility of a Homestead Exemption with a means test.
- Eminent Domain: Sustain local government's right to use eminent domain for traditional public purposes.
- Removal of Certain Appointed Members of Local Boards and Commissions: Allow local governing bodies the discretion to remove members of a Planning Commission, an Economic Development Authority, and a Wetlands Board if the member misses any three meetings in a row, or four meetings in any 12-month period.

During the review of Support for Tourism, the Board members indicated it was important to coordinate these regional requests with the neighboring localities, and take the request to the General Assembly as a coordinated, unified issue.

The Board also asked for more information concerning the de-regulation of electrical rates prior to its meeting with the Legislative Delegation on September 27.

CONSENT CALENDAR

Mr. Zaremba asked for clarification regarding Item No. 3. He stated it was his impression from this information that anyone can go out and start pulling up signs from the VDOT rights-of-way.

Mr. McReynolds explained that the language was crafted by VDOT with input by Mark Carter, but he recommended that the Code Compliance Officer be the one designated as the County official who performs the sign removal.

Mr. Carter expressed his agreement with Mr. McReynolds' advice, stating it was always a good idea to be in a County vehicle when doing this kind of work.

Chairman Burgett questioned Item No. 5 and what the housekeeping amendments were doing for marinas and Mrs. Higginbotham.

Mr. Carter explained that her request was for commercial reception halls to be allowed as a matter of right in the WCI District. Staff has proposed that they be allowed by special use permit in the WCI District. The performance standards proposed are essentially the same as for restaurants that are accessory to marinas in the WCI District.

Mrs. Noll then moved that the Consent Calendar be approved as submitted, Item Nos. 1, 2, 3, 4, 5, and 6, respectively.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

Item No. 1. APPROVAL OF MINUTES

The minutes of the following meeting of the York County Board of Supervisors were approved:

August 2, 2005

Item No. 2. REFUND OF TAXES: Resolution R05-153

A RESOLUTION TO AUTHORIZE A TAX REFUND TO WELLS ICE
& COLD STORAGE, INC.

WHEREAS, York County Code § 21-7.3 requires approval from the Board of Supervisors for the payment of any refund of taxes, penalties and interest in excess of \$2,500.00; and

WHEREAS, Wells Ice & Cold Storage, Inc. has made a proper request for a tax refund for 2005 prorated Business License Tax due to the sale of its business on May 1, 2005; and

WHEREAS, the Request for Tax Refund has been approved and recommended by the Commissioner of the Revenue, the Treasurer, and the County Attorney.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 6th day of September, 2005, that the Treasurer is authorized to refund to Wells Ice & Cold Storage, Inc., business license tax in the amount of \$3,006.25, plus interest in the amount of \$125.36, for a total refund of \$3,131.61.

Item No. 3. REMOVAL OF ILLEGAL SIGNS IN RIGHTS-OF-WAY: Resolution R05-155

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO EXECUTE AN AGREEMENT BETWEEN THE YORK COUNTY BOARD OF SUPERVISORS AND THE VIRGINIA DEPARTMENT OF TRANSPORTATION TO PROVIDE AUTHORITY FOR THE COUNTY, ACTING AS AN AGENT OF THE STATE, TO REMOVE ILLEGAL SIGNS OR ADVERTISEMENT WITHIN THE LIMITS OF HIGHWAY RIGHTS-OF-WAY

WHEREAS, pursuant to Section 33.1-373 of the Code of Virginia, 1950 as amended, the Virginia Department of Transportation enforces a prohibition on the placement of signs and advertisements within the limits of highway rights-of-way in the Commonwealth; and

WHEREAS, subsequent to deliberations conducted at a public meeting, the York County Board of Supervisors has found and determined that the proliferation of unauthorized signs in the rights-of-way of highways in York County is becoming more prevalent and such signs can create public safety hazards and can have a negative effect on the appearance of public highways; and

WHEREAS, pursuant to the authority provided under Section 33.1-375.1 of the Code of Virginia, the York County Board of Supervisors wishes to provide its assistance to VDOT in the enforcement of the sign restrictions through the execution of a formal agreement through which the County would be designated as VDOT's agent for the removal, obliteration and abatement of signs and advertisements placed illegally within the limits of highway rights-of-way.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 6th day of September, 2005, that the County Administrator be, and he is hereby, authorized to execute an agreement with the Virginia Department of Transportation providing for the County to act as VDOT's agent in the removal of illegal signs with highway rights-of-way, said agreement to be in substantially the same form and content as that attached to the County Administrator's report to the Board dated August 22, 2005, and to be approved as to form by the County Attorney.

Item No. 4. SUBDIVISION ORDINANCE HOUSEKEEPING AMENDMENT: Resolution R05-156

A RESOLUTION TO SPONSOR AN APPLICATION TO AMEND CHAPTER 20.5, SUBDIVISIONS, YORK COUNTY CODE, TO ALLOW CONSIDERATION OF A SERIES OF PROPOSED REVISIONS TO VARIOUS SECTIONS OF THE SUBDIVISION ORDINANCE

WHEREAS, Chapter 20.5, Subdivisions, of the York County Code was adopted with an effective date of December 1, 1991, and it has come to the attention of the Board of Supervisors that certain sections and provisions are in need of clarification and adjustment; and

WHEREAS, the suggested revisions are outlined in the County Administrator's report to the Board dated August 15, 2005; and

WHEREAS, in the interest of good subdivision and land development practice, the Board wishes to sponsor an application to allow these proposed amendments to be reviewed and considered in accordance with applicable procedures for subdivision ordinance text amendments;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 6th day of September, 2005, that it does hereby sponsor an application for amendment of various sections of Chapter 20.5, Subdivisions, of the York County Code as described in the County Administrator's report to the Board dated August 15, 2005.

BE IT FURTHER RESOLVED that the proposed amendments be, and they hereby are, referred to the York County Planning Commission for review, public hearing, and recommendation in accordance with applicable procedures.

Item No. 5. ZONING ORDINANCE HOUSEKEEPING AMENDMENTS: Resolution R05-157

A RESOLUTION TO SPONSOR AN APPLICATION TO AMEND CHAPTER 24.1, ZONING, YORK COUNTY CODE, TO ALLOW CONSIDERATION OF A SERIES OF PROPOSED REVISIONS TO VARIOUS SECTIONS OF THE ZONING ORDINANCE TEXT TO ENSURE CONSISTENCY WITH OTHER SECTIONS OF THE YORK COUNTY CODE, TO CORRECT CERTAIN REFERENCES AND CONFORM PROVISIONS TO THE CODE OF VIRGINIA, AND TO CONSIDER REVISED REGULATIONS PERTAINING TO SENIOR HOUSING, COMMERCIAL RECEPTION HALLS, SIGNAGE FOR MEDICAL CENTERS, AND ADMINISTRATIVE MODIFICATIONS OF CERTAIN ZONING STANDARDS, AND TO INITIATE AN ACTION TO CONSIDER PROPOSED AMENDMENTS TO CHAPTERS 23.1, WETLANDS, AND 23.2, CHESAPEAKE BAY PRESERVATION AREAS, TO REFLECT STATE CODE PROVISIONS, TO ESTABLISH THE BOARD'S RIGHT TO APPEAL DECISIONS OF THE CHESAPEAKE BAY BOARD, TO ESTABLISH A REVIEW FEE FOR EXCEPTION REQUESTS, AND TO CLARIFY ENFORCEMENT PROCEDURES.

WHEREAS, Chapter 24.1, Zoning, of the York County Code was adopted on June 28, 1995, and it has come to the attention of the Board of Supervisors that certain sections and provisions are in need of clarification and adjustment; and

WHEREAS, it has also come to the attention of the Board that the provisions for appeal of Chesapeake Bay Board decisions need to be supplemented in order to preserve the Board of Supervisors' right to appeal; and

WHEREAS, the suggested revisions to both Chapters are outlined in the County Administrator's report to the Board dated August 15, 2005; and

WHEREAS, in the interest of good zoning and land use practice, the Board wishes to sponsor an application to allow these proposed amendments to be reviewed and considered in accordance with applicable procedures for zoning ordinance and County Code amendments;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 6th day of September, 2005, that it does hereby sponsor an application for amendment of various sections of Chapter 24.1, Zoning, Chapter 23.1, Wetlands, and Chapter 23.2, Chesapeake Bay Preservation Areas, of the York County Code as described in the County Administrator's report to the Board dated August 15, 2005.

BE IT FURTHER RESOLVED that the proposed amendments be, and they hereby are, referred to the York County Planning Commission for review, public hearing, and recommendation in accordance with applicable procedures.

Item No. 6. VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) LAND USE PERMITS: Resolution R05-158

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE A BLANKET PERMIT FROM THE VIRGINIA DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, RECONSTRUCTING, MAINTAINING, AND OPERATING CERTAIN PUBLIC WORKS AND PUBLIC UTILITIES PROJECTS ALONG, ACROSS, OVER AND UPON THE HIGHWAY SYSTEM OF VIRGINIA, AND TO TAKE CERTAIN OTHER ACTIONS RELATING THERETO

WHEREAS, it becomes necessary from time to time for the County of York to obtain permits from the Virginia Department of Transportation (VDOT) to install, construct, maintain and operate certain public works and public utilities projects along, across, over and upon the highway system of Virginia, and

WHEREAS, expense, damage or injury may be sustained by the Commonwealth of Virginia growing out of the granting of permits for such work to the County of York by the Virginia Department of Transportation; and

WHEREAS, in accordance with the terms and conditions of the VDOT Land Use Permit Manual, the County wishes to provide certain assurances to VDOT regarding such work.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 6th day of September, 2005, that the following performance guarantees and assurances be, and they are hereby, provided to the Virginia Department of Transportation:

1. In accordance with the terms of the Virginia Department of Transportation Land Use Permit Manual, the County of York does hereby grant assurance to the Virginia Department of Transportation that it shall in all respects comply with all the conditions of the permit or permits that have been, or will be, granted to the County.
2. The County of York does hereby certify that it does and will carry liability insurance for personal injury and property damage that may arise from the work performed under permit and/or from the operation of the permitted activity, as follows: up to one million dollars (\$1,000,000) each occurrence to protect the Commonwealth Transportation Board (CTB) members and VDOT's agents or employees; up to four million dollars (\$4,000,000) each occurrence, provided in the form of an excess liability Virginia Municipal League policy with a certificate naming the above parties as additional insured.
3. That the County Administrator, or his designee, be, and he is hereby, authorized to execute on behalf of the County of York all land use permits and related documents of the Virginia Department of Transportation.

BE IT FURTHER RESOLVED that this resolution shall be a continuing resolution and shall not be revoked by the Board of Supervisors unless and until sixty (60) days written notice of any proposed revocation be submitted by the Board to the Virginia Department of Transportation.

OPEN DISCUSSION

Mrs. Noll stated everyone has been very concerned since Hurricane Katrina hit Louisiana, Mississippi, and Alabama, and the citizens want to do something. She indicated that Isle of Wight County has donated \$32,000 and Botetourt County has donated \$25,000. The County Administrators in Virginia received a letter from VACo suggesting that donations go to the Red Cross, and Mrs. Noll stated she would like the Board to also consider making a donation to the Red Cross or other organization for disaster relief. She indicated she felt the Board should show its support of its fellow elected officials in their devastated areas.

Chairman Burgett suggested that staff look into where the money would go.

Mrs. Noll stated if the Board wishes to do something, it should decide what would be the level of commitment and then decide where the funds would go.

Mr. Barnett noted that generally the Board may be limited in its ability to donate to organizations that serve the County's citizens, but it still leaves a lot of leeway. He stated similar resolutions are being proposed, and he would review the statute again.

Mr. Shepperd suggested that the Board set a limit at this time.

Mr. Bowman stated that he personally did not think the Board should do this because it would be giving the County citizens' tax dollars to someone outside of the locality. He stated that Federal and state agencies are working on site now, and the Red Cross is collecting funding to support this relief effort. The President and Congress have signed off on a \$10 billion bill for aid. The churches are collecting needed items. Mr. Bowman stated he felt the community was pulling together, and the citizens were making their own donations to support the cause. He reminded the Board members that they were getting ready to go into a budget process, and whatever donated figure was agreed on could be critical in next year's budget. He stated he wanted to make sure the citizens are covered here at home first.

Mr. Zaremba indicated the Board is the steward of the County's fiscal life, and it is charged with a mandate to spend the taxpayers' funds appropriately. He stated that Hurricane Isabel was not on the grand scale as Katrina, but there are citizens who are still being affected by Isabel, and this Board did not make a special resolution to alleviate the suffering. He asked how much would be enough. With the amount of money going in to the effort now, he stated he was not convinced that the Board should contribute funds.

Mr. Shepperd stated he understood where Mr. Bowman and Mr. Zaremba were coming from, and he agreed with the fundamental aspects. He stated that unfortunately Katrina was an embarrassment to the country and a travesty of ineptitude. He stated he felt the point to him was that this is a part of the United States, a major region of the country. Mr. Shepperd recommended that the Board donate \$1 per capita to the relief effort.

Mr. Zaremba asked if any of the County's EMS personnel had been mobilized,

Mr. McReynolds indicated that two County personnel were currently deployed, with one coming back in this evening, and three are on standby. He stated the County has also received requests for equipment, and he has a meeting with Chief Kopczynski to talk about making a recommendation as to what the County can do. He also noted he has a meeting with the V-Team on Thursday to see what the employees might do.

Discussion followed.

Chairman Burgett indicated that if the Board agreed to donating \$1.00 per capita, the question left was to whom the donation would go. He suggested that staff develop a list of potential organizations.

Mr. Zaremba indicated he was opposed to giving the funds to the affected local governments because of the turmoil they are in at the present time.

Mr. McReynolds stated that staff would develop a list of possibilities and provide it to the Board members so that a decision could be made.

CLOSED MEETING. At 7:40 p.m. Mr. Zaremba moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions.

On roll call the vote was:

Yea:	(5)	Noll, Bowman, Shepperd, Zaremba, Burgett
Nay:	(0)	

Meeting Reconvened. At 7:58 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

September 6, 2005

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREE-
DOM OF INFORMATION ACT REGARDING MEETING IN CLOSED
MEETING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 6th day of September, 2005, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Bowman, Shepperd, Zaremba, Noll, Burgett
Nay: (0)

APPOINTMENTS TO THE YORK COUNTY PARKS AND RECREATION ADVISORY BOARD

Mr. Shepperd moved the adoption of proposed Resolution R05-154 that reads:

A RESOLUTION TO APPOINT REPRESENTATIVES TO THE YORK
COUNTY PARKS AND RECREATION ADVISORY BOARD

BE IT RESOLVED by the York County Board of Supervisors this 6th day of September, 2005, that Sharon J. Kline and Harold H. Barton, Jr., be, and they are hereby, appointed to the York County Parks and Recreation Advisory Board to fill the unexpired terms of David Malmquist and Eva J. Williamson, such terms to begin immediately and end December 31, 2007.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Bowman, Burgett
Nay: (0)

APPOINTMENT TO THE PENINSULA AGENCY ON AGING, INC., BOARD

Mrs. Noll moved the adoption of proposed Resolution R05-149 that reads:

A RESOLUTION TO APPOINT A REPRESENTATIVE TO THE PEN-
INSULA AGENCY ON AGING, INC., BOARD

BE IT RESOLVED by the York County Board of Supervisors this 6th day of September, 2005, that Dr. Gnanmani Arul, be and is hereby, appointed to the Peninsula Agency on Aging, Inc., Board for a term of three years, such term to begin October 1, 2005, and end September 30, 2008.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Bowman, Shepperd, Burgett
Nay:

Meeting Adjourned. At 8:02 p.m. Mrs. Noll moved that the meeting be adjourned sine die.

On roll call the vote was:

Yea: (5) Noll, Bowman, Shepperd, Zaremba, Burgett
Nay: (0)

James O. McReynolds, Clerk
York County Board of Supervisors

James S. Burgett, Chairman
York County Board of Supervisors